

102103 17691 U.S. PTO

Orrick Docket No.: 701470.4084

102103 10/690948 497 U.S. PTO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Prior Attorney Docket No.: 263/087  
First Named Inventor: Louis J. Barbato  
Prior Application Information:  
Serial No. 09/906,903  
Examiner: Daniel Leon Robinson  
Art Unit: 3742

MAIL STOP Patent Application  
Commissioner for Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☐ continuation ☒ divisional ☐ continuation-in-part (CIP)

application of U.S. Serial No. 09/906,903 filed on July 16, 2001, the disclosures of which are expressly incorporated herein by reference, by

Louis J. Barbato entitled:

ELECTRONICALLY SCANNED OPTICAL COHERENCE TOMOGRAPHY  
WITH FREQUENCY MODULATED SIGNALS

I. APPLICATION ELEMENTS ENCLOSED

25 Page(s) of Written Description  
13 Page(s) of Claims  
1 Page(s) of Abstract  
7 Sheet(s) of Drawings ☒ formal ☐ informal  
2 Page(s) of ☒ Declaration or ☐ Declaration and Power of Attorney  
☒ Copy from prior application [37 CFR §1.63(d)]

CERTIFICATE OF MAILING  
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EV 314509012 US  
Express Mail Label No.

October 21, 2003  
Date of Deposit

DOCSOC1:143397.1

Sally Hartwell  
Name of Person Mailing Paper

Signature of Person Mailing Paper

- ☒ Assignment papers (cover sheet and documents(s))
- ☐ An Information Disclosure Statement, PTO 1449.
- ☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

## II. FEE CALCULATION

- ☐ Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>						\$770.00
Total Claims	26	-	20	=	6	x \$18.00 \$108.00
Independent Claims	1	-	3	=	0	x \$84.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						\$878.00
Reduction by ½ for Filing by Small Entity.					<input type="checkbox"/>	\$0.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
<b>TOTAL FEES DUE HERewith</b>						\$878.00

## III. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

## IV. AMENDMENTS

- ☒ Cancel in this application original Claims 27-59 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

☐ Relate back information included in preliminary amendment or specification.

☒ Please amend the specification as follows:

Please insert on Page 1, paragraph 1 the following: -- This application is a divisional application of U.S. Serial No. 09/906,903 filed on July 16, 2001, the disclosures of which are expressly incorporated herein by reference. --

☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:

☒ the same.

☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

[Name(s) of inventor(s) to be deleted]

**VI. METHOD OF PAYMENT OF FEES**

☐ Attached is a check in the amount of \_\_\_\_\_.

☒ Charge Orrick, Herrington & Sutcliffe's Deposit Account No. **15-0665** in the amount of \$878.00.

☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Orrick, Herrington & Sutcliffe's Deposit Account No. **15-0665** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **15-0665**:

☒ 37 CFR § 1.16 (Filing fees and excess claims fees)

☒ 37 CFR § 1.17 (Application processing fees)

☐ 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

☒ The power appears in the original papers in the prior application, and a copy is enclosed.

☐ The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.

☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 34313:

Orrick, Herrington & Sutcliffe LLP  
4 Park Plaza, Suite 1600  
Irvine, California 92614-2558  
(949) 567-6700  
Customer No.: 34313

Please direct all inquiries to **Joseph K. Liu**, at the above-referenced Customer Number.

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until \_\_\_\_\_. A copy of the petition for extension of time in the **prior** application is attached.

☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

Orrick, Herrington & Sutcliffe LLP

Dated: October 21, 2003

By: \_\_\_\_\_

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